IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 750 OF 1998.

The Commissioner of Income-tax ... Applicant.

V/s.

M/s Sharda Sugar & Industries Ltd.. Respondent.

Shri Ashok Kotangale, Sr. Counsel with D.A. Dubey
for the applicant.

Ms. V.B. Patel for the respondent.

CORAM : V.C.DAGA AND A.S.AGUIAR, JJ.

DATED : 26.7.2005

P.C. :

. By this reference under section 256(1) of the Income-tax Act, 1961, the Income Tax Appellate Tribunal has referred the following question of law for the opinion of this Court:

1. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was justified in law in holding that the Commissioner of Income-tax did not have the jurisdiction to exercise the power of revision under section 263 of the Income-tax Act, 1961 even with regard to matters which had not been considered and decided in an appeal against the order sought to be revised by the Commissioner in exercise of his revisionary powers?"

. The above question stands covered by our judgment dated 22.7.2005 in the case of C.I.T. vs. M/s Ratilal Bacharilal & Sons in I.T.R. No. 352 of 1988 (unreported). For the reasons recorded

therein, we answer the above question in negative i.e. in favour of the Revenue and against the assessee.

(A.S.AGUIAR, J.) **(V.C.DAGA, J.)**